

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
(BOSTON)**

Nancy Brooks and Joan Silverman, as
Trustees of the Irrevocable Trust of Donald L.
Silverman and as Executrices for the Estate of
Donald L. Silverman

Plaintiffs,

v.

AIG SunAmerica Life Assurance Company,

Defendant.

Civil Action No. 05-10994-WGY

FIRST DECLARATION OF PLAINTIFFS' ATTORNEY JOHN PETER ZAVEZ

I, John Peter Zavez, Esq., do hereby depose and state under oath as follows:

1. I am a member in good standing of the Bar of the Commonwealth of Massachusetts and am counsel of record for the plaintiffs in the above captioned action.

2. Attached hereto is a true and accurate copy of the firm resume for Adkins, Kelston & Zavez, P.C.

Signed under the pains and penalties of perjury on 14 December 2005.

DATED: 14 December 2005

/s/
John Peter Zavez (#555721)
Noah Rosmarin (#630632)
ADKINS KELSTON & ZAVEZ, P.C.
90 Canal Street
Boston, MA 02114
Tel: (617) 367-1040
Fax: (617) 742-8280

CERTIFICATE OF SERVICE

I certify that on 14 December 2005, I caused a true copy of the foregoing document to be served electronically via the Court's electronic filing system on defense counsel. /s/

John Peter Zavez

ADKINS, KELSTON & ZAVEZ, P.C.

90 Canal Street, Boston, MA 02114

(617) 367-1040

FIRM BIOGRAPHY

Adkins, Kelston & Zavez, P.C. specializes in class action matters, particularly involving deceptive sales practices, mutual insurance company reorganizations, non-profit conversions and insurance regulatory matters. The firm has also served individuals and businesses in coverage and related disputes in arbitration, administrative proceedings and litigation. Adkins, Kelston & Zavez also has a broad range of experience in civil and criminal litigation, including in the areas of business and partnership disputes, intellectual property litigation, landlord-tenant matters, civil rights matters, environmental torts, business reorganizations and a wide variety of other transactions.

REPRESENTATIVE RESULTS

In *Crandall v. Alderfer*, we represented plaintiffs in a class action alleging that the defendant directors and Old Guard Mutual Insurance Company had converted from a mutual insurance company without adequately compensating the class. After extensive motion practice and discovery, and certification of the class, we were able to settle the case on behalf of the class for approximately \$7 million.

In *Rieff v. Evans et al.*, we have succeeded in getting the Iowa Supreme Court to recognize the tort of de facto demutualization, certified a class of harmed mutual policyholders and settled the case on a class-wide basis for an amount no less than \$128.5 million.

In *McGonagle v. Home Depot*, we have prevailed on summary judgment with respect to liability and certified a class of all consumers who were overcharged sales tax.

In *Micromuse, Inc. v. The Estate of Christopher Dawes*, USDC CV 12333 (D. Mass. 2002) we represented the defendant (the estate of a recently deceased high tech entrepreneur), where plaintiff claimed damages in the hundreds of millions of dollars for breach of a joint venture agreement. After extensive discovery, our client prevailed on summary judgment, and final judgment entered for the estate, with costs, on March 2, 2004.

In *495Harrison LLC v. J&B, Inc.*, Suffolk Sup. Ct. C.A. No. 04-1849, we represented a plaintiff developer, and successfully established a new mechanics' lien law in Massachusetts discharging an encumbrance that was interfering with the project's completion.

In *Silverman v Liberty Mutual Insurance Company*, we represented policyholders who alleged that the defendant insurance company had filed a misleading proxy concerning its conversion to a mutual holding company and that the conversion, as structured, would harm the policyholders' equity interests in the mutual. After extensive pretrial litigation and targeted discovery, we settled the case on behalf of the plaintiffs through an agreement, which included substantive changes in the way the company would operate to reduce potential conflicts, and for over \$850,000 for costs and to fund a study of mutual conversions.

In class action litigation brought against Franklin Life Insurance Company, AKZ was one of a team of plaintiffs' firms that charged the Company with deceptive sales practices. The case ultimately settled on a class-wide basis for an amount valued at \$50 million. In *In re New England Life Insurance Company Sales Practices Litigation*, AKZ was again one of a team of plaintiffs' firms that charged the Company with deceptive sales practices. The case ultimately settled on a class-wide basis for an amount valued in excess of \$100 million.

In *Mitchell v. City of Boston, et al*, AKZ represented a plaintiff in a civil rights action against the City of Boston and two of its police officers when plaintiff was exonerated after spending more than seven years in prison (we were the first to overturn a Massachusetts conviction through the use of DNA evidence). The case settled for \$450,000.

In *Commonwealth v. Hardwood*, AKZ represented a criminal defendant against charges of larceny and workers' compensation fraud. On the eve of trial, the Massachusetts Superior Court granted our motion to suppress the Commonwealth's key witness. The Commonwealth took an interlocutory appeal and the SJC affirmed the trial judge's decision. Shortly thereafter, the Commonwealth dropped all charges against our client.

In *Commonwealth v. Cassino*, a heavily publicized criminal matter in which our client was charged with vehicular homicide, we were able to win a full acquittal after a one-week jury trial.

ATTORNEYS

[Jason B. Adkins](#)

Jason Adkins is a graduate of the University of Michigan where he received his A.B. in 1982, and Harvard Law School, where he received his J.D. in 1991. He was admitted to the Massachusetts Bar in 1991.

Jason Adkins is a founder and director of Adkins, Kelston & Zavez P.C. Prior to forming this firm's predecessor Adkins & Kelston, Jason was founder and Executive Director of the Center for Insurance Research from 1991 to 1997. The Center for Insurance Research is a leading non-profit organization that conducts research and advocates on behalf of policyholders nationwide. The Center has been highly effective in moving the issue of

insurance reform into the public eye and sparking a national debate on the issue of mutual insurance company reorganizations, and the adequacy of state regulatory oversight, among other issues. Jason also served as a consumer representative to the National Association of Insurance Commissioners from 1992 to 1997, and currently serves as legal advisor to the Center for Insurance Research.

Jason Adkins has specialized in the area of insurance and other complex litigation, and represents policyholders in class action litigation in Massachusetts and around the country. He has written and published widely on insurance matters and frequently speaks and testifies on insurance regulatory and related matters. Jason has also represented state and national candidates for political office and political parties in election-related litigation, and represented clients before the U.S. Federal Trade Commission, the Massachusetts Board of Medicine, and other governmental agencies.

David L. Kelston

David Kelston is a graduate of Columbia College, where he received his A.B. in 1967, the Kennedy School of Government, Harvard, M.P.A., 1982, and Harvard Law School, where he received his J.D. (magna cum laude) in 1982 and where he served as articles editor for the Harvard Law Review. David was admitted to the Massachusetts Bar in 1983.

David Kelston is a founder and director of Adkins, Kelston & Zavez P.C. He is an experienced trial and appellate litigator who, after clerking for the Honorable Robert Keeton (U.S. District Court) following law school, was an associate and then partner at prominent Boston law firms until the formation of Adkins & Kelston (the predecessor to Adkins, Kelston & Zavez) in 1997. David is the author of various articles concerning trial practice and related matters, and has served as member and board director of numerous bar-related groups.

Among important cases David has litigated are constitutional cases involving first amendment rights, business cases concerning investors' property interests in substantial assets, and criminal cases establishing rules for informant testimony and automobile searches by police.

John Peter Zavez

John Peter Zavez graduated from Harvard College in 1981, served on active duty in the US Army from 1981-85, and graduated from Harvard Law School in 1989. He has been a member of the Massachusetts bar since 1989.

John is a founder and director of Adkins, Kelston & Zavez, P.C. His previous legal experience includes clerking for a Federal District Judge William G. Young, and working 8 years for two prominent Boston law firms. John has been involved in every aspect of approximately 30 nationwide consumer and shareholder class action lawsuits, from investigating and filing complaints to negotiating settlements.

Outside of work, John is married and the father of three girls, a Lieutenant Colonel in the US Army Reserve, and a "middle of the pack" endurance athlete who has completed the Boston Marathon each of the last 15 years.

Noah R. Rosmarin

Noah Rosmarin is a graduate of the University of Tampa, B.A. in 1992, and Southern New England School of Law, where he received his J.D. in 1995. While in law school, Noah served as an officer of the international Law Society (1993-1995), was a member of the Environmental Law Society (1994-1995) and was Outstanding Oralists on the Phillip C. Jessup International Law Moot Court Team. Noah admitted to the Massachusetts Bar in 1995.

A native of Boston, Noah was selected as one of Massachusetts' five outstanding young lawyers in 1997 for his participation in high-profile civil rights litigation. He was most recently commended for his successful effort, through the use of DNA evidence, in freeing a Massachusetts citizen who had been wrongly imprisoned for almost a decade.

FIRM AFFILIATIONS

Adkins, Kelston & Zavez works closely with prominent firms around the country to identify and litigate complex matters, particularly those involving insurance. The firm works with Barrack, Rodos & Bacine, which has offices in Philadelphia, California, Massachusetts and New Jersey, as well as Berman, DeValerio Pease Tobacco Burt & Pucillo and other firms with regional and national presence.